

# BRACKETT TO FACE WHITMAN FOR RILEY

Ex-Senator Will Appear To-  
morrow as Counsel for  
Prison Head.

PLAIN TALK IS EXPECTED

ABRANT, Jan. 9.—Former State Senator Edgar T. Brackett of Saratoga will represent Superintendent of Prisons John B. Riley when he appears before Gov. Whitman at noon on Tuesday to answer charges made by the Governor that the superintendent ordered the transfer of certain prisoners from Sing Sing to Dannemora without consulting Warden Kirkway or the Governor about it.

Supt. Riley's friends are pleased to-night when they heard that Senator Brackett would appear after his interests. They were pleased, they said, because they felt certain that Senator Brackett would not make words in laying bare the whole situation at Sing Sing. Supt. Riley is in possession of information which has been made known to the management of Sing Sing, and it was said to-night that Senator Brackett on Tuesday might be expected to say some things which would be of great interest to the public. Supt. Riley's friends were sure that Senator Brackett, who they felt was responsible for the situation in which the prison superintendent has been put.

Riley Says Kirkway Knew.

Senator Brackett will come to Albany to-morrow and go over the situation with Supt. Riley. Riley, who is the accused official in the case, will be turned over to Senator Brackett upon his arrival. Supt. Riley said this included proof that Kirkway was thoroughly familiar with every matter relating to the transfer to which the Governor referred in his charges.

"As a matter of fact," said Judge Riley, "I discussed the matter of transferring prisoners from Sing Sing to Dannemora with Warden Kirkway before he was ever formally issued. Subsequently when I learned that officers of the Mutual Welfare League were included in the list, I went to the trouble of calling the warden up on the telephone and making it plain to him that those officers—six of them, I believe, there were—should not be transferred."

"It is also a fact that orders sent by me to warden authorizing the transfer of prisoners were frequently changed at the prison, with my consent. For instance, I sent a list of sixty men to be transferred and the warden suggested that some of the men whose names were on the list should not be transferred. He would call me up about it and I would abide by his judgment."

"This was almost a regular practice in all the prisons. I sent Warden Osborne an order some time ago instructing him to transfer certain prisoners, and from this list he checked off the names of twenty-five prisoners. There, the warden said, ought to remain at Sing Sing."

Would Have Changed List.

"I accepted his judgment at that time and granted his request that the men he designated should remain at Sing Sing. If any prisoners in the batch that I recently ordered transferred to Dannemora that Warden Kirkway thought should remain at Sing Sing, he has perfect license to suggest their retention, and he knows I would have readily acquiesced."

"If there were among the prisoners to be transferred witnesses for or against Mr. Osborne it was his duty to call my attention to the fact and I would not have permitted their leaving Sing Sing. He is perfectly well aware of this. Furthermore, how I could know that there were any witnesses included for Mr. Osborne, I cannot say. Witnesses for the people might be expected to know to a certain extent, for they were called before the Grand Jury. Witnesses for Mr. Osborne, however, I could not very well know, for his case has not been disclosed in any way."

RILEY READY FOR FIGHT.

Gets Sing Sing Lists to Prove He Was Not Unfair.

OSTANDA, N. Y., Jan. 9.—In preparing his fight to rebuttal at Superintendent of Prisons, John B. Riley obtained to-day from Sing Sing prison lists of the two last lists of prisoners he ordered transferred to Dannemora. Gov. Whitman's ground for requesting Supt. Riley's resignation was that he had improperly ordered a transfer.

Supt. Riley will enlist District Attorney Weeks in his fight. Patrick H. McDonald, Supt. Riley's confidential aide, was sent to get from Mr. Weeks in White Plains copies of the draft lists that have been considered by the Grand Jury investigating Sing Sing. It is understood that Supt. Riley plans to use them to show that in making up lists he did not aim at the Mutual Welfare League.

BATTLE SAYS LAW FAILS.

Thinks Present System Does Not Prevent Crime.

George Gordon Battle, attorney for Thomas Mott Osborne and a member of the National Committee on Prisons and other like organizations, said last night in an address on "Prison Reform" at Public School 101, Lexington avenue, 11th street, that he believed that the administration of criminal law has proved a failure.

"The treatment of criminals is the appalling problem of our times," Mr. Battle said. "Our administration of criminal law has proved a failure, for it is not only inefficient and inhuman, but it is expensive as well. The great machinery of courts, prisons and police is necessary because it has not succeeded in restraining crime."

Mr. Battle described the work of Thomas Mott Osborne, whom he described as "the present warden not acting warden" of Sing Sing, and said that the new system at Sing Sing was a combination of the two great ideas of modern times—humanity and conservation.

In response to the questions from young Socialists and anarchists in the audience, Mr. Battle said that he believed that to some extent crime was due to the present distribution of property, and also said that capital punishment should be abolished.

Mr. Battle's criticism of the municipal administration for cutting the appropriation for public lectures was applauded.

T. R. NOT EVEN FOR HIMSELF.

Colonel Sara Hiss Fighting for Straight Out Americanism.

# JURY DISAGREES ON FIVE N. H. MEN; SIX ACQUITTED

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stand, but I should like to know in a general way whether your trouble arises from any possible misunderstanding of the evidence on the construction to be placed upon the charge by the court, which understanding might be relieved by having portions of the evidence of the charge read to you."

"I am confident, your Honor," responded Foreman Stephen D. Hirschman, "that the jury understood the case thoroughly, but we can never be sure. He paused and then added: "But if any individual member of the jury desires to make a request for rereading of any evidence he may do so now."

Aided by the Court.

When no juror took the proffered opportunity to speak, Judge Hunt continued in a manner that plainly showed his sympathy and appreciation of the situation the men were under. He again impressed upon them the great importance of the case; gently told them not to yield their consciences, but to confer privately and disagree some of the evidence, and then to return to the court and state the law does not ask any one to yield if his individual viewpoint is so soundly pronounced on the evidence that he feels he cannot.

"If after you have done this with painstaking care," continued Judge Hunt, "and if you cannot reach a unanimous conclusion concerning the evidence as to all the defendants, try your conclusions as to some of them. This you may do. If you feel that you could reconcile your differences as to some of the defendants and not as to others, in such circumstances you might file a verdict as to some of the defendants while disagreeing in regard to others."

Those in the court room experienced in the study of juries those few remarks of the court appeared to fall as a boon on the ears of the twelve men, noticeably relieved and worn by the stress of their two days of trial. When they left the court room to begin their struggle anew, about ten minutes after 12, there were brighter prospects for a verdict of some kind soon. But the jury went to lunch at 1 o'clock without a sign of settlement. It was not until a few minutes before 4 P. M. that word reached the court that the jury had reached a verdict. No one in the court room or the corridors seemed to have any doubt that a verdict had been reached. Speculation this time was not whether there would be a verdict, but what it would be. And the guessers congratulated themselves in the few minutes that elapsed between the assembling of counsel, defendants and newspaper reporters and the entrance of the jury a minute or two after 4:30 o'clock.

Verdict Returned.

Every juror had his overcoat and hat. That meant something. One had a package of liniment which somebody had sent him for sore legs. Foreman Hirschman held a yellow sheet of paper in his hand as Judge Hunt inquired: "Gentlemen, have you reached a verdict?"

"We have," answered the foreman. "Have you reached a verdict as to all of the defendants?"

"To some?"

"Yes, to some."

"Mr. Foreman," said the court, "let me ask you whether or not you believe that it is impossible for you to agree on a verdict as to all of the defendants?"

"It is impossible," answered Hirschman.

"Is that generally the view of the jury that such a verdict would be impossible?"

"An 'I' to assume, then," continued Judge Hunt, "that you believe it would be useless to deliberate further as to those upon whose cases you cannot agree?"

"Yes," said the foreman.

"Then, gentlemen, what is your verdict?"

Hirschman glanced down at the paper in his hand, then read:

"We find the defendants Barney Taft, Herbert W. Taft, one of those known as McHarg, not guilty. We disagree as to the defendants Rockefeller, Brooker, Pratt, Ledyard and Robinson. It is significant that the jury did not acquit all the defendants who were indicted."

"Gentlemen," said Judge Hunt, "before discharging you finally, let me thank you for your faithful and conscientious duty that you have imposed upon you. You deserve particular commendation from the court for your dignity and circumspection during the last few months."

"The defendants who have been found not guilty are discharged from custody. As to the others, the case will stand over until such other disposition as may be made later."

Shake Hands of Jurors.

As the jurors filed out of the box in which they have sat on every court day since October 12, last several of the defendants shook hands with them. Lewis Cass Ledyard was one of these, so was James S. Hemmingsway, whose son was in court for the first time yesterday. He was the first of the twelve to be acquitted. He was followed by the other five who were acquitted, and then by the six who were found guilty.

Mr. Swacker, one of the Government counsel, and shook hands with him, saying, "Mr. Swacker, I want to shake hands with you and thank you." Mr. Swacker gladly took the proffered hand.

Outside, in the corridor, the jurors were immediately besieged by a small army of reporters trying to learn what course the jury discussion had taken. Mr. Hirschman, the most besieged, put up his hand and said: "Gentlemen, we came to a tacit agreement before we came into court not to say anything about our deliberations. But it was not long before one juror here, another there, was surrounded by an inquiring group of reporters or counsel, and bit by bit the story of their fifty-one hour struggle came out. The jury was divided, the defendants seemed particularly anxious to hear what went on behind the jury room door. Most of the debate occurred there, the jurors tabored talking about the case when they went to their hotel at night."

When they were settled in the jury room soon after 1:30 o'clock on Friday afternoon, the first ballot was taken. Foreman Hirschman appointed C. A. Plint, an electrical engineer and the youngest member of the twelve, to act as teller and to record the voting of the pendulum. The first ballot was six for acquittal and four for conviction. Two voted blanks, because they contended that although they had their own convictions, they wanted to hear both sides express themselves. The second ballot showed a gain of one for those who voted blank, Hirschman, a real estate man, and Plint.

Locked at 8 to 4.

The third ballot resulted in another gain of one for the acquittists. Hirschman voting with the majority, Plint still voting blank, the question of reasonable doubt seemed to trouble him at the time. That was Friday night. The next ballot drew the lines sharply, eight for acquittal and four for conviction. They stood that way right through Saturday's deliberations and the final verdict was placed on the Government's side. No. 2, MacFarland, a dress goods broker; No. 1, James H. Carter; No. 3, Peter Wagner, a retired builder; and No. 10, Plint.

Judge Hunt in his charge to the jurors on Friday morning had told them plainly that they must first determine

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OF BUSINESS,  
SAYS GREGORY

Continued from First Page.

and quickest way of enforcing the law would be by a civil proceeding in which the action involved would be contested or a consent decree entered, according as the defendants desired, or by a notice to the effect that if the defendants did not consent to a consent decree, the action would be prosecuted to its conclusion with opportunity to abandon or modify the transaction.

The choice as between these two procedures would be determined by the circumstances of the particular case. The Attorney-General claimed no original jurisdiction in this case, but he stated that it was neither original nor peculiar to the anti-trust law, but is the policy of the Department and should call upon the Trade Commission for assistance under this provision.

"In this connection the attention of the Attorney-General was called to paragraph 2 of section 4 of the Federal Trade Commission law, which authorizes the commission 'upon application of the parties to investigate and to make recommendations for the readjustment of the business of any corporation alleged to be violating the anti-trust laws of the United States.'"

"The order that the department may thereafter maintain its organization, management and conduct of business in accordance with law."

"He was asked whether he could state what the policy of the Department of Justice would be with regard to invoking this provision. He replied that while he was certain that this would prove to be a most serviceable provision in solving particular questions which often arise in the enforcement of the anti-trust laws, it was as yet too early, in his judgment, to attempt to particularize as to the cases in which the Department of Justice should call upon the Trade Commission for assistance under this provision."

"Speaking generally he stated he did not understand that the provision contemplated that he should refer to the commission the question whether the law has been violated, but rather questions of the feasibility, adequacy or advisability of proposed remedies from a practical standpoint."

"Who would be the parties to the suit? He did not arise or where they arise in a form which presents no difficulty or purpose would be served, of course, by having the parties to the suit named in the complaint. The commission that had already been gone over before the Department."

"On the other hand, when working out the details of the case, the commission would be faced with the question of the feasibility of the proposed remedies from a practical standpoint."

"The discussion then turned to the measures taken by the Department to guard against prosecutions for which there is no remedy. On this point the Attorney-General stated that no proceeding is ever instituted until after the most painstaking and exhaustive investigation of the facts which it is possible to make."

"As a part of this inquiry the person or corporation against whom complaint is made is given full opportunity to submit its defense before any action is taken. This is done, he pointed out, not only in the case of the corporation, but also in the case of the individual who is named in the complaint."

"The action of the trustees will be taken to the courts on appeal."

WILSON LETS PUBLIC DECIDE.

Gives Views on Second Term in Letter to Palmer.

A Washington dispatch to the World to-day says that on February 5, 1913, twenty-seven days before he was nominated President, Wilson sent a long letter to President Taft in which he expressed his views on the Presidential term to six years. The letter said in part:

"The question is simply this: Shall our President be elected for so far as the law is concerned, to serve a second term of four years, or shall they be limited by constitutional amendment to a single term of four years?"

"I can approach the question from a perfectly impersonal point of view, because I shall most cheerfully abide by the judgment of my party and the public as to whether I shall be a candidate for a second term."

"I absolutely pledge myself to resort to nothing but public opinion to decide that question."

"The President ought to be absolutely deprived of every other means of deciding it. He can be I shall use to the utmost every proper influence to bring about a decision, but he is before the term to which I have been elected is out. That side of the matter need disturb no one."

REALTY MEN LIKE HODGE.

Indorse Selection of New Public Service Commissioner.

The appointment of Henry W. Hodge to the Public Service Commission by Gov. Whitman has been strongly indorsed by the Advisory Council of Real Estate Interests, which is the clearing house for real estate owners and taxpayers' associations throughout the city. Letters have been written to Gov. Whitman and Senator Sage approving the appointment and petitioning that it be confirmed.

Mr. Hodge is chairman of the board's advisory staff of experts, which was selected from prominent engineers, architects, surveyors, and other experts, including such men as Otto H. Eidlitz, Burt L. Penner, Julius Frank, Louis Horowitz, Charles E. Knox, Daniel E. L. Brown, and others.

The board declares that the presence of the commission will expedite the completion of the new subway system, demanded by the real estate owners.

Industrial Board Under Scrutiny.

Gov. Whitman has called upon former State Senator J. Mayhew Wainwright, chairman of the Industrial Council, for that body's advice as to whether the members of the State Industrial Commission should be retained. This action followed the report of the Governor's jury in the Diamond factory fire case, which twelve lives were lost. The jury reported that the Industrial Commission were "inefficient and guilty of neglect."

Parents of Bobby Striker Skeptical of Wisconsin Report.

The parents of Bobby Striker, a four-year-old boy who disappeared December 12, 1914, were not hopeful last night that a report from Tomah, Wis., saying the boy had been found on a farm near there would be of any use. The report was received by Mr. and Mrs. William Tischer, the parents, at their home, 474 McDonough street, Brooklyn.

Bobby Striker disappeared while on a visit to his grandparents, the Tischer family, who live on a farm near Tomah, Wis. Search was made all over the country, but no clue to his whereabouts was ever found. Several months after his disappearance, a man was seen leading a boy in a Wisconsin farm, and it was believed Bobby had been found. Investigation proved that the boy in question was not Bobby.

# BRIDGEMOSE LEAF IN FIGHTING SPIRIT

Eastern Leaders Believe Their  
Convention Will Begin  
on June 7.

SLOGAN, T. R. OR HUGHES

There seemed little doubt among the Bull Moose leaders who started for Chicago yesterday on the Twentieth Century limited that the Progressive national convention would be held in that city on June 7, the same day on which the Republican convention begins its work. That at least seemed to be the prevailing sentiment of the New York and other Eastern leaders, no matter how the West may feel, and it seemed pretty generally recognized June 7 is the date favored by Col. Roosevelt.

The few who favor June 9 point out that on that date the Republican convention should get around to its business of nominating and that the gathering then of the Progressive clans might have a more potent effect than if they also began work on the same day that the Republican convention opens.

Col. Roosevelt was not among those present at the meeting at the Hotel Hamilton, where the gathering of the Progressive clans might have a more potent effect than if they also began work on the same day that the Republican convention opens.

From all sides as the gathering of the Progressive clans might have a more potent effect than if they also began work on the same day that the Republican convention opens.

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CHURCH BUILDERS TO MEET.

Many Problems to Come Before  
Presbyterian Societies To-day.

Representatives of societies that have organized 50,000 or more churches in this country will meet to-day in the chapel of the Madison Square Presbyterian Church to report the work done in the past year. It has been the most prosperous and progressive year the church has ever known.

That an effort to stir up the old enthusiasm of Armageddon is to be exerted is evidenced by the preparations made to hold the very day of 1912 when the Roosevelt rump convention developed into one of the classics of politics. The old Florentine room in the Congress Hotel, where the party was born, has been taken.

"Roosevelt or Hughes in 1916," was the hope expressed yesterday. If the party could get the Colonel nominated they would then turn to the party, it was said.

REFORM POLICE CHIEF OUSTED.

Long Beach Trustees Decide  
Against Accused Official.

LONG BEACH, L. I., Jan. 9.—In a trial made public to-day by the trial committee of the village trustees, headed by John O. Hendon, the village trustee, Charles M. Hewlett, chief of police, is dismissed as chief of the fire department. The trustees of the village are said to have reached a point where he presents a greater religious problem. The trustees of the village are said to have reached a point where he presents a greater religious problem.

MRS. MOHR ON TRIAL TO-DAY.

Will Sit Apart From Negroes  
With Her Two Children.

PROVIDENCE, Jan. 9.—The trial of Mrs. Elizabeth T. Mohr as accessory before the fact in the murder of Dr. C. Franklin Mohr will begin in the Superior Court before Judge Charles F. Stearns at 10 o'clock to-morrow morning.

FIGHT ON WHITMAN BUDGET.

Senate Committee Objects to Dropping 100 Office Holders.

ABRANT, Jan. 9.—The first definite criticism of the Legislative Budget Committee's budget proposals presented with his annual message came to-day from the Senate Finance Committee. It affects the elimination by the governor from the requests of State Superintendent.

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